IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 309 OF 1993

WITH

SPECIAL CIVIL APPLICATION NO. 323 OF 1993

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SH SAIYAD

Versus

OIL & NATURAL GAS COMMISSION

Appearance:

MR IS SUPEHIA for Petitioner No. 1
MS KALPANA BRAHMABHATT FOR
MS VASUBEN P SHAH for Respondents No. 1 to 3

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 24/07/2001

COMMON ORAL JUDGEMENT

In both these petitions common issue is involved and hence both the petition are disposed of by common judgment.

2. Special Civil Application No.309 of 1993 is filed for quashing and setting aside the order dated 17-5-1992 whereas Special Civil Application No. 323 of 1999 is filed for quashing and setting aside the order dated 2-9-1992 passed by the Respondent - Oil Natural Gas Commission (hereinafter referred to as "respondent ONGC" for brevity) and in both the petitions the petitioners have prayed for reinstating them with all consequential benefits.

3. Voluntary Retirement Scheme was introduced by the respondent ONGC by the Office Memorandum dated 12-1-1989 for the executives/employees of the respondent ONGC on the the following conditions :

(a) an executive/employee of the Commission, who has completed 10 years of service or completed 40 years of age may seek Voluntary Retirement by a written request;

(b) the mangement of the Commission will have the right not to grant voluntary retirement for reasons to be recorded in writing;

the terminal payments available to an executive/MM employees, who seeks voluntary retirement, would be :-

(c) In addition, an executive/employee, whose request for voluntary retirement is accepted, would also be entitled to an ex-gratia payment equivalent to 1-1-2 months' emoluments (Pay + DA + Adhoc/interim relief) for each completed year of service or the monthly emoluments at the time of retirement multiplied by the balance months of service left before normal date of retirement, whichever is less.

(d) the executive/employee and his family would also be entitled to travel by the entitled class to the place where he intends settled down.

4. By the Circular dated 13-2-1991/20-3-1991 each case/request for voluntary retirement, is required to

submit to the Executive Committee for approval and all cases are submitted to headquarters with self-contained proposal for placement before the Executive Committee. All the cases of voluntary retirement will be proceeded as under :

(a) On receipt of the application for voluntary retirement, an Exit Interview will invariably be conducted immediately and the report of Exit Interview will be enclosed along with proforma L-I and the original application and submitted to Head of Project for recommendation.

(b) The original note, the original application in duplicate, Exit Interview report, Proforma L-I along with the recommendation of the Project Head will be forwarded to Head of concerned business group at Baroda. All above documents are required to be sent in duplicate.

(c) The Bio-data of employee/Executive seeking voluntary retirement be attached in duplicate along with the documents mentioned in (b) above. The bio-data should invariably contain the following particulars :

(i) Date of birth
(ii) Date of Joining ONGC.
(iii) Identification number.
(iv) qualifications.
(v) Date of joining present post.
(vi) Basic pay, D.A., I.R. drawn on the date of the application.

(vii) Outstanding dues :

- B.H.A.
- Conveyance.
- Any other dues payable by the concerned employees.

(viii) Vigilance/Disciplinary case pending, if any.

(ix) Whether under any Bond to serve ONGC.

(d) The application in respect of employees is required to be completed in all respects and submitted in similar manner to Head of concerned business group at

Baroda for his recommendations.

(e) Head of concerned Business Group will forward these cases to DCM (P & A), Baroda, for obtaining Vigilance/Disciplinary clearance and recommendations of Regional Director.

(f) the case will thereafter be forwarded to Head quarters under intimation to Head of concerned Business group at Baroda and head of concerned work centres.

5. It is also stated that the employees/executives desirous of seeking voluntary retirement should apply sufficiently well in advance so that enough time is available for processing the case. Case received in the manner other than prescribed are not required to be entertained. The employees/executives will be relieved only after receipt of approval of the competent authority and reminder be sent only in case of exceptional delays, if any.

6. Office Memorandum dated 26-11-1991 provides that the matter regarding withdrawal of voluntary retirement requests once submitted by the employees, has been considered in the 88th meeting of Executives Committee held on 30-10-1991 at New Delhi. It has been decided that the following guidelines may be followed in cases of withdrawal of voluntary retirements requests"

(a) The applications of those employees/officers in whose cases the orders have been implemented, their applications for withdrawal of voluntary retirement should not be considered.

(b) The application of those officers/employees for withdrawing the voluntary retirement whose cases are in the pipeline and have not been decided by the competent authority may be considered on merits.

(c) In case, however, the voluntary retirement has been accepted by the competent authority and the concerned employee is to be relieved from a future date, if any request for withdrawing voluntary retirement is made by the concerned employee before he is actually relieved of his duties/during notice period, as the case may, the concerned employee shall be precluded from withdrawing his notice except with the specific

approval of the competent authority. In such cases, competent authority has the discretion to exercise its powers with reasons to be recorded in writing.

7. Shri S.H. Saiyad petitioner of Special Civil Application No. 309 of 1993 submitted an application dated 1-5-1992 to the General Manager (Project), ONGC, Ankleshar Project, Ankleshar with request to permit him to take voluntary retirement w.e.f. 31.7.92 (AN). After following required procedure the said application of the petitioner for voluntary retirement was accepted vide order dated 9-7-1992 by the G.G.M. (P & A), ONGC, WRBC, Baroda and the intimation thereof was given to the petitioner by the letter dated 15-7-1992. The petitioner moved another application dated 15-7-1992 to the General Manager (Project), ONGC, Ankleshwar Project, Ankleshwar for withdrawal of the application for voluntary retirement stating therein that due to changed domestic situation he has made up his mind not to seek for voluntary retirement. It is also stated that no exit interview was conducted and the petitioner has not been communicated regarding acceptance of voluntary retirement. Hence, he requested the authority of the respondent ONGC to withdraw his application and the copies were also sent to the D.D. (P & A) ONGC, Ankleshwar Project, Ankleshwar and the General Secretary, ONGC, Ankleshar. The petitioner also sent representation dated 13-12-1992 by Regd. Post A.D. to the Group General Manger, (P P & A), ONGC, Western Region, Makarpura Road, Baroda stating therein that he had applied for voluntary retirement on 1-5-1992 and he had also sent another application for withdrawing his voluntary retirement on 15-7-1992 before acceptance of voluntary retirement communicated to him. Voluntary retirement was forced upon him and the case of the voluntary retirement of the petitioner was contrary to the Voluntary Retirement Rules therefor. Due to voluntary retirement he has been put to a loss of lacs of rupees and he requested to withdraw the orders at voluntary retirement otherwise he will have to approach the Court. That request letter was sent through the advocate on 2-12-1992 by registered Post A.D. After the impugned order the petitioner was sent a cheque dated 8-9-92 towards terminal benefits which was accepted by the petitioner so as to avoid further complications and acceptance of the said benefits would not make the impugned order valid which is otherwise invalid and illegal.

8. The affidavit-in-reply has been on behalf of the

respondent no. 3 and he has stated therein that the application of the petitioner for the withdrawal of voluntary retirement was received by the respondent no. 2 on 21-7-1992 and much prior to the receipt of the same i.e. on 7.7.1992 the approval to the application dated 1-5-1992 of the petitioner for voluntary retirement was given and the petitioner was communicated by the office order dated 15-7-1992 to take note which was received by the petitioner so as to strike out the name of the petitioner from 31-7-1992. It is also stated that after the receipt of the application of the petitioner dated 1-5-1992 for voluntary retirement the petitioner proceeded on leave he could not be available which shows his intention for earlier voluntary retirement. Hence, on 4-6-1992 when the petitioner was asked to appear for the Exit Interview, the petitioner could not appear for the same. Again the petitioner was called on to remain present for Exit Interview but as he was absent from 20-6-1992 onwards, he did not remain present for the same. Exit interview could not be held on account of petitioner and there was no lapse on the part of the respondents. The petitioner has received sum of Rs.1,21,730.00 towards Contributory Provident Fund, Rs.75,125/- towards gratuity by the office order dated 3-9-1992 and Rs.2.05,611/- towards ex-gratia payment under the office order dated 3-9-1993 and 1-12-1993. The petitioner has accepted the amount of C.P.F. and part of the ex-gratia amount paid to him for the voluntary retirement. Hence, the petitioner again withdrew the offer for voluntary retirement.

9. Rejoinder affidavit has also been filed by the petitioner.

10. Similarly, in Special Civil Application No. 323/93 petitioner - M.K. Babi made an application on 1-5-1992 requesting to take voluntary retirement with effect from 31-7-1992. By the office order dated 2-9-1992, the petitioner was communicated voluntary retirement of the petitioner has been approved w.e.f. 2-9-1992 and his name thereafter stood struck off the rolls of the Commission from the aforesaid date. He moved the application on 15-7-1992 for withdrawal of voluntary retirement to the General Manager (Project), ONGC, Ankleshwar Project, Ankleshar stating therein that due to changed domestic situation he had changed his mind that not to seek voluntary retirement. It is also stated that no Exit Interview has been conducted and no acceptance of voluntary retirement has been communicated to the petitioner so far and before the communication of acceptance, the petitioner can withdraw his application.

The petitioner made a representation to the GGM, ONGC, Baroda stating therein that he had applied for voluntary retirement on 1-5-1992. He had sent the communication for withdrawal of voluntary retirement on 15-7-1992 before acceptance of voluntary retirement communicated to him. Voluntary retirement has been forced which is contrary to the Voluntary Retirement Rules and Voluntary Retirement would amount to compulsory retirement and he will suffer loss of lakhs of rupees. Hence, he requested to withdraw the order of voluntary retirement otherwise he will be forced to approach the Court.

11. Legal notice dated 2-12-1992 was sent to the Chairman, ONGC, Dehradun, the General Manger (Project), ONGC, Ankleshwar Project, Ankleshar and Group General Manager, ONGC, Makarpura Road, Baroda, by registered post.

12. An affidavit-in-reply has been filed on behalf of the respondent no. 3 and it is stated therein that not only the petitioner is estopped from claiming reinstatement but the petition is an after thought as he has taken away substantial amount towards the terminal benefits and then filed the petition. The petitioner was habitual absconder from his duties. The respondent ONGC as contemplating to initiate disciplinary proceedings against the petitioner for major penalty like dismissal etc. Before any step was taken by the respondent ONGC for initiating the disciplinary proceedings, the petitioner moved the application for voluntary retirement. The petitioner has been called for Exit Interview but he was not available as he was on long leave. The application of the petitioner for voluntary retirement could not be immediately proceeded by the competent authority. Taking into consideration petitioner's conduct of habitual absence from the duty, it was felt that in any case his continuance in the service would not be helpful to the organisation in any manner. The competent authority granted approval to the request of the petitioner for voluntary retirement by the letter dated 1-9-1992 and Ankleshar Project informed the petitioner vide letter dated 2-9-1992 and he stood voluntarily retired with effect from 2-9-1992 and his name was struk off from the role of the respondents from that date.

13. The petitioner was ordered to pay Rs.53,050/towards C.P.F. the sum of Rs.41,998/- towards the gratuity, and Rs.1,11,337-10 ps. towards ex-gratia payment voluntary retirement prior to the date of superannuation. Thus, the petitioner has received

Rs.2,06,385-56 ps. Petitioner's voluntary retirement was considered by the competent authority solely on merits and in view of his request for voluntary retirement, the respondents did not initiate any disciplinary proceedings, but decided to drop the same.

14. After submissions of the application dated 1-5-1992 for voluntary retirement, the petitioner had proceeded and half-pay leave with effect from 12-5-1992 to 17-6-1992 and was absent from duty with effect from 18-6-1992 to 30-7-1992. When the petitioner was asked to appear for Exit Interview, he did not remain present and hence Exit Interview could not be conducted on account of his absent from duty and non-availability and that could not be a ground for invalidating the action of the respondents of accepting his request for voluntary retirement. Provisions for conducting Exit Interview are not mandatory but the purpose of holding Exit Interview is to ascertain the reasons for voluntary retirement. The noncompletion of exit interview on account of the omission on the part of the petitioner to remain present in the Exit Interview when called for cannot be a bar for the acceptance of the request of the petitioner for his voluntary retirement.

15. Rejoinder affidavit on behalf of the petitioner was also filed.

16. The petitioner of both these petitions made their application for voluntary retirement on 1-5-1992 and both the petitioners moved their applications for withdrawal of voluntary retirement on 15-7-1992 and before their applications for voluntary retirement accepted with effect from 31-7-1992, both the petitioners have moved their applications for withdrawal of voluntary retirement on 15-7-1992, the voluntary retirement of Mr. Saiyad petitioner of Special Civil Application No. 309/93 was accepted on 9-7-1992. While the voluntary retirement of Mr. Baby petitioner of Special Civil Application No. 323/93 was accepted on 2-9-1992. Voluntary Retirement Notices have already been accepted by the employer, the employees have locus standi to withdraw the proposal before the date of retirement is reached. In both the petitions, the petitioners had submitted their applications for voluntary retirement on 1-5-1992 with effect from 31-7-1992. Till the date 31-7-1992, the petitioners had locus standi to withdraw the proposal for voluntary retirement before the date of retirement is reached.

17. Learned counsel for the petitioner relied on the

decision of the Supreme Court in the case of J.N. Shrivastava Vs. Union of India reported in AIR 1999 SC 1573, wherein it has been held as under :

> "It is now well settled that even if the voluntary retirement notice is moved by an employee and gets accepted by the authority within the time fixed, before the date of retirement is reached, the employee has locus poenitentiae to withdraw the proposal for voluntary reinstatement."
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> The same view has been taken by the Division Bench of this Court in the case of Balram Gupta Vs. Union of India, reported in 1987 (Supp) SCC 288 (AIR 1987 SC 2354).
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> xxx xxx xxx xxx
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> The net result of this order is that the appellant will have to be treated to be in service till the date of his superannuation which is said to be somewhere in 1994 when he completed 58 years of age. The respondents authorities will have to make good to the appellant all monetary benefits by treating him to have continuously worked till the date of his actual superannuation in 1994. This entitled him to get all arrears of salary and other emoluments including increments and to get his pensionary benefits refixed accordingly."

18. Learned counsel for the petitioner has also relied on the decision of this Court in the case of Jayantikumar Atmaram Bhatt Vs. Gujarat State Road Transport Corporation & Another, reported in 1998 (2) GLR 1001, wherein it has been held as under :

> "It is not in dispute that the petitioner has submitted application for withdrawal of his notice-application for voluntary retirement with effect from 31st July 1996 before 31-07-1996. It is true that the notice-application of the petitioner to go on voluntary retirement has been accepted by the Corporation vide its order dated 12th June 1996 and it is equally true that mentioning of Service Regualtion No. 51 is only an error, but this voluntary retirement would have been effective from 31st July 1996. The relationship of employer and employee i.e. of the Corporation and the petitioner would have

come to an end only from 31st July 1996 and till that date, this relationship subsists. Though the order accepting the application of the petitioner to go on voluntary retirement has been passed on 12th June, 1996, it would have been effective only from 31st July 1996 and before this effective date, the petitioner has all the rights to withdraw his application for voluntary retirement and if such a prayer has been made, then the respondent - Corporation could not have taken shelter of the order dated 12th June 1996. The matter is squarely covered by judgment of the Hon'ble Supreme Court and of this Court, on which reliance has been placed by the learned Counsel for the petitioner."

19. Learned counsel for the petitioner also relied on the decision of the Supreme Court in the case of Balram Gupta Vs. Union of India and another, reported in AIR 1987 SC 2354, wherein it has been observed as under :

"It is, therefore, submitted that once notice was given it became operative immediately, if it was received by the Government and automatically brought about the dissolution of contract after expiry of the notice period. We are unable to accept this submission and this position. The dissolution would be brought about only on the date of indicated, i.e. 31st of March, 1981; up to that the appellant was and is a Government employee. there is no unilateral termination of the same prior thereto. He is at liberty, and entitled entitled independently without sub-rule (4) of Rule 48-A of the Pension Rules, as a Government servant, to withdraw his notice of voluntary retirement. In this respect it stands at par with letter of resignation."

20. It is true that both the petitioners have moved their applications for withdrawal of their voluntary retirement prior to date of giving effect of retirement. In both the applications for the petitioners had prayed for their voluntary retirement with effect from 31-7-1992 and both the petitioners moved their application for withdrawal of their application for withdrawal of voluntary retirement on 15-7-1992 and as such both the applications were moved prior to 31-7-1992 when the voluntary retirement was to be given effect from 31-7-1992. The applications for withdrawal of retirement of one of the petitioners was accepted on 9-7-1992 and other petitioner's application was accepted on 2-9-1992.

Thus, before the date of retirement was to reach, the petitioners had moved their applications for withdrawal of voluntary retirement and the orders were passed by the respondents authorities accepting the voluntary retirement of the petitioners for their service to continue till 31-7-1992 in one case and on 2-9-1992 in other case.

21. Accordingly to the learned counsel for the petitioners, the respondents authorities have no authority to retire the applications of the petitioners for voluntary retirement. But this contention of the learned counsel for the petitioners is not sustainable in the eye of law in view of the fact there was no voluntary retirement scheme in the respondent ONGC and it was introduced in the year 1989 under the relevant Rules. It is mentioned therein that once the application is moved for voluntary retirement and if that application has been accepted the employee concerned will be precluded from withdrawing his notice except save with specific approval of the competent authority. As separate and specific provisions have been made in the newly retirement scheme introduced by the respondent Corporation and hence the authorities cited by the learned counsel for the petitioners are not applicable. So far as the decision of the Supreme Court in the case of Balram Gupta (supra) is concerned, Sub-Rule 4 of Rule 48A, the prevents, withdrawal of resignation letter except save with the approval of the authority and that sub-rule 4 of Rule 48A is reproduced as under :

> "(4) A Government servant, who has elected to retire under this rule and has given the necessary notice to that effect to the appointing authority, shall be precluded from withdrawing his notice except with the specific approval of such authority."

22. The Supreme Court has observed in this respect "As mentioned hereinbefore the main question was whether Sub-rule 4 of Rule 48-A was valid and if so whether exercised under sub-rule 4 of Rule 48A was proper. In the view was taken that it was not necessary to decide whether Sub-Rule 4 of Rule 48-A was valid or not and the Supreme Court has not proposed to consider the question whether Sub-Rule 4 of Rule 48-A of the Pensions Rules was valid or not. If properly exercised the power of the Government may be a salutary rule. Approval, however, is not ipse dixit of the approving authority. The case of Balram Gupta (Supra) was decided on the merits of the case.

23. In the case of Shri Saiayd the petitioner of Special Civil Application No. 309/93 the application for withdrawal of voluntary retirement was made on 1-5-1992 with effect from 31-7-1992 and the application for withdrawal of voluntary retirement application dated 1-5-1992 was made on 15-7-1992. The necessary order on that application has already been passed on 9-7-1992 whereby the application for withdrawal of voluntary retirement of the petitioner of Special Civil Application No. 309/93 was accepted before filing the application dated 15-7-1992. As the necessary order was passed, it was not necessary for the authority concerned to pass the order on the application dated 15-7-1992 for withdrawal of voluntary retirement application in view of the fact that the voluntary retirement application was already accepted on 9-7-1992 and specific application ought to have been filed by the petitioner for approval from the competent authority that he may be permitted to withdraw voluntary retirement application dated 1-5-1992 and that application has not been moved at all by the petitioner and he only moved the application that he may be permitted to withdraw the application dated 1-5-1992. A separate application was required to be made before the appropriate authority for specific approval of the competent authority and that application has not been moved by the petitioner. If such application was not moved, the authority concerned is not required to pass any order on the application dated 15-7-1992 which was moved for withdrawal of voluntary retirement application. As there is no specific prayer for specific approval of the competent authority, the competent authority cannot be said to have committed an error in passing the order on the application dated 15-7-1992. However, the petitioner made representation and legal notice after the date to be given effect from 31-7-1992. Though in this respect the learned counsel for the petitioners has also made submission that relevant Clause 3(a) of Circular dated 13-2-1991/20-3-91 requires Exit Interview of the employee. In that communication, it is mentioned that on receipt of the application for voluntary retirement, an exit interview will invariably be conducted immediately and the report of exit interview will be enclosed along with the proforma L-I and the original application submitted to the head of the project for recommendation. Under the guidelines of the aforesaid circular, it is also required that the original application in duplicate, exit interview report, proforma L-I along with the recommendations of the Project Head will be forwarded to the concerned busienss group at Baroda. The bio-data of employees/Executive is required to be sent along with the

aforesaid requisite items.

24. The contention of the learned counsel for the petitioner is that the exit interview of the petitioner was not conducted and the report of the exit interview was also not sent along with the original application of the petitioner and proforma L-I, as required under the aforesaid guidelines. As such, noncompliance of the guidelines will vitiate proceedings for acceptance of the petitioners' voluntary retirement.

25. I have considered this argument and in this respect I have considered the purpose of the exit interview of the employee making request for voluntary retirement. The purpose appears to be that any outstanding dues are pending against the employee concerned regarding BHA, Conveyance and any other dues payable by the concerned employee or the vigilance of disciplinary case pending if any or any bond was in existence. In case any dues or any vigilance or disciplinary authority case is pending against the petitioner or there is existence of bond to serve the respondent ONGC, then the respondent Corporation would have right to refuse the request of the employee concerned permitting for voluntary retirement. Thus, even the exit interview is not held or conducted and no report is submitted and if any application for voluntary retirement is accepted then it will not vitiate the process of the voluntary retirement. However, it is mentioned in the affidavit-in-reply that the petitioner was called twice for exit interview but he was not available as he was absent and he was on leave. Thus, if the exit interview has not been held or conducted and no report if exit interview has been sent for, it would not have any effect or vitiate the process of voluntary retirement and if such request for voluntary retirement has been accepted that will not vitiate the same. Thus, Special Civil Application No.309 of 1993 deserves to be dismissed. Accordingly, Special Civil Application No. 309 of 1993 is dismissed. Rule is discharged with no order as to costs in Spl. C.A. No.309/93.

26. I have considered the case of the Shri N.K. Babi petitioner of Special Civil Application No. 323 of 1993 in which the application for voluntary retirement was moved on 1-5-1992 and effect thereof was to be given from 31-7-2001 and thereafter on 15-7-1992 he moved an application for withdrawal of voluntary retirement application dated 1-5-1992 and the appropriate authority has passed the order on that application on 1-9-1992 accepting the application for voluntary retirement of the

petitioner and that has been accepted. But it appears from the assertions made in the affidavit-in-reply that the application dated 15-7-2001 for voluntary retirement has not been considered at all. The application for withdrawal of application voluntary retirement was made on 15-7-1992 and that remained pending till 1-9-1992 i.e. for about 48 days. When the order dated 1-9-1992 was passed by the respondent authority accepting the voluntary retirement application, the application dated 15-7-1992 for withdrawal of voluntary retirement application was pending before the authority concerned. The authority concerned has not passed any order. The authority concerned has discretion to exercise its power to accept or reject such application, the authority concerned is required to pass appropriate order and that order could have been passed rejecting the application on the ground that the petitioner was habitual absconder from his duty and the disciplinary proceedings contemplated against the petitioner have been dropped. But not passing any order on the application dated 15-7-1992 on 1-9-1992 when the authority concerned accepted the application for voluntary retirement and thrown away the application dated 15-7-1992 as irrelevant document which vitiates the voluntary retirement process.

27. So far as Special Civil Application No. 323/93 is concerned, that petition deserves to be allowed on the ground that the respondent authority has not passed any order and it has not applied its mind to the facts of the case whatsoever may be mentioned therein and completely ignored the same. The order dated 1-9-1992 communicated by the letter dated 2-9-92 Annexure-F is hereby quashed and set aside. In this petition, question with regard to back wages is required to be considered. The petitioner has not worked for the period from 2-9-92 till this date. In view of the decision of the Supreme Court in the case of Surjit Ghosh Vs. Chairman & Managing Director, United Commercial Bank and others, reported in AIR 1995 SC 1053, while considering dismissal of the officer of the aforesaid Bank which has taken place in the year 1992 allowed the petition on 6-2-1995 by directing the Bank to reinstate the petition in service. But instead of giving arrears of pay which was running into Rs. 20 lacs for the period from 17-8-1978 to 6-2-1995. Relevant portion of the aforesaid decision, reads as under :

> "The Bank is a nationalised bank and the money belongs to the public. A large amount on this scale cannot be paid to anyone for doing no work during this long period just because the Bank feels that it has lost confidence in the

employee. He can certainly be placed in a department where he has nothing to do with the monetary transactions of the Bank, such as the establishment section etc. even assuming that the bank has reasons to lose confidence in him.

In the peculiar facts and circumstances of this case of the petitioner of Special Civil Application No. 323 of 1993, the respondent ONGC is directed to reinstate the petitioner of Special Civil Application No. 323/93 in service notionally and the petitioner will be deemed to be in service for the purpose of retiral benefits. The petitioner is entitled to 25% back wages from the date of 1-9-1992 till he resumes his duty in the respondent ONGC with the benefit of revision of pay scale admissible under Rules and Regulations of the respondent ONGC as well as retiral benefits with regard to gratuity as per the Gratuity Act or gratuity scheme applicable to the employees of the respondent ONGC. The petitioner is to retire on 31-01-2003. The respondents are directed to pay 25% back wages together with all consequential and retiral benefits for the aforesaid period from 1-5-1992 till the petitioner is reinstated and resumes his duty in the respondent Corporation. Accordingly, the petition being Special Civil Application No. 323 of 1993 is allowed. Rule is made absolute with no order as to costs.

It is submitted by the learned counsel for the respondents that the petitioner of Special Civil Application No.323/99 has already received the huge amount towards retiral benefits from the respondent ONGC. taken away the benefits. In view of the assertions made by the petitioner himself, the petitioner of Special Civil Application No. 323/93 is directed to refund the entire amount received by him towards retiral benefits from the respondent Corporation. within three weeks from today.

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